

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

LET THEM PLAY MN, JANE DOE 1,
individually and as parent and guardian of
Jane Doe 2 and John Roe 1, minors, JANE
DOE 3, as parent and guardian of John
Roe 2 and Jane Doe 4, minors, JANE DOE 5,
and JOHN ROE 3, as parent and guardian
of John Roe 4, a minor,

Civil No. 20-2505 (JRT/HB)

Plaintiffs,

v.

ORDER

GOVERNOR TIM WALZ, *in his official*
capacity, ATTORNEY GENERAL KEITH
ELLISON, in his official capacity,
COMMISSIONER JAN MALCOLM, in her
official capacity, MINNESOTA
DEPARTMENT OF HEALTH,
COMMISSIONER ALICE ROBERTS-DAVIS, in
her official capacity, and MINNESOTA
DEPARTMENT OF ADMINISTRATION,

Defendants.

Samuel W. Diehl and Ryan Wilson, **CROSSCASTLE PA**, 17118 64th Avenue
North, Maple Grove, MN 55311, for plaintiffs.

Elizabeth C. Kramer and Cicely R. Miltich, **MINNESOTA ATTORNEY**
GENERAL'S OFFICE, 445 Minnesota Street, Suite 1100, Saint Paul, MN
55101, for defendants.

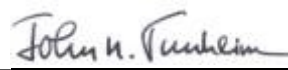
Plaintiffs previously filed a Motion for Preliminary Injunction, (Mot. Prelim. Inj. &
Expedited Disc., Dec. 12, 2020, Docket No. 9), which the Court denied, (Mem. Op. & Order,

Dec. 18, 2020, Docket No. 28.) Plaintiffs appealed the Court's decision, (Notice of Appeal, Dec. 19, 2020, Docket No. 29), thus conferring jurisdiction over the First Amendment issues presented and decided with respect to this Motion to the Eighth Circuit, *see* 28 U.S.C. § 1292(a)(1). Plaintiffs have now filed a second Motion for Preliminary Injunction. (Mot. Prelim Inj., Dec. 22, 2020, Docket No. 35.) However, as the second Motion involves First Amendment issues "inextricably bound up with the [first] injunction decision," 16 Wright & Miller, Federal Practice and Procedure § 3921.1 (3d ed.), only the Eighth Circuit can exercise jurisdiction over these issues at this time, *see Fogie v. THORN Americas, Inc.*, 95 F.3d 645, 648 (8th Cir. 1996). Accordingly, absent a remand from the Circuit Court, the Court does not currently have jurisdiction to consider Plaintiffs' Motion.

ORDER

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that, with respect to Plaintiffs' First Amendment claim regarding public gatherings, the Court will stay all proceedings and suspend all deadlines until a decision is reached by the Eighth Circuit on the now-pending appeal of Plaintiffs' first Motion for Preliminary Injunction.

DATED: December 23, 2020
at Minneapolis, Minnesota.



JOHN R. TUNHEIM
Chief Judge
United States District Court